

FILED

2013 NOV 27 PM 3:58

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____

1 Imran F. Vakil, Esq. (Bar No. 248859)
2 ivakil@onellp.com
3 Christopher Arledge, Esq. (Bar No. 200767)
4 carledge@onellp.com
5 **ONE LLP**
6 4000 MacArthur Blvd.
7 East Tower, Suite 500
8 Newport Beach, CA 92660
9 Phone: (949) 502-2870
10 Facsimile: (949) 258-5081
11 *Attorneys for Plaintiff, Sream, Inc.*

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 SREAM, INC,

17 Plaintiff,

18 v.

19 SHAMROCK SMOKE SHOP, INC.;
20 MEDICI INVESTMENT, INC. d/b/a
21 EMPIRE TOBACCO; and DOES 1-10
22 INCLUSIVE,

23 Defendants.

Case No. **SACV13-01868 PSG (AGRx)**

COMPLAINT FOR:

- (1) **FEDERAL TRADEMARK
INFRINGEMENT [15 U.S.C. §
1114]**
(2) **COUNTERFEITING [15 U.S.C. §
1117]**
(3) **FALSE DESIGNATION OF
ORIGIN [15 U.S.C. §1125(a)]**
(4) **UNFAIR COMPETITION [CAL.
BUS. & PROF. CODE § 17200]**
(5) **COMMON LAW UNFAIR
COMPETITION**

DEMAND FOR JURY TRIAL

COMPLAINT

1 Sream, Inc. (“Sream” or “Plaintiff”), by and through its attorneys of record,
2 complains against Defendants Shamrock Smoke Shop, Inc., Medici Investment, Inc. d/b/a
3 Empire Tobacco, and DOES 1 through 10 (“DOES”) (collectively “Defendants”), alleging
4 as follows:

5 **JURISDICTION AND VENUE**

6 1. This is a civil action against Defendants for counterfeiting, trademark
7 infringement, false designation of origin and unfair competition under the Lanham Act (15
8 U.S.C. § 1051 *et seq.*

9 2. This court has subject matter jurisdiction under the Lanham Act, 15 U.S.C. §§
10 1051 *et seq.*, 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338(a) (trademark) and 28
11 U.S.C. § 1338(b) (unfair competition), and pendant jurisdiction over the remaining claims
12 pursuant to 28 U.S.C. § 1367.

13 3. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) in that the
14 claim arises in this Judicial District, the Defendants may be found and transact business in
15 this Judicial District, and/or the injury suffered by Plaintiff took place in this Judicial
16 District. Defendants are subject to the general and specific personal jurisdiction of this
17 Court because of their contacts with the State of California.

18 4. This Court has personal jurisdiction over Defendants. Amongst other things,
19 Defendants have engaged in direct, contributory, vicarious, and/or otherwise induced
20 trademark infringement and counterfeiting in this judicial district. Further, Defendants
21 have engaged in continuous and systematic business in California and, upon information
22 and belief, derive substantial revenues from commercial activities in California.
23 Specifically, Defendants have (1) designed, manufactured, sourced, imported, offered for
24 sale, sold, distributed, and/or shipped infringing and counterfeit merchandise to persons
25 within this State in the ordinary course of trade; (2) engaged in acts or omissions outside
26 of this state causing injury within the State; and/or (3) has otherwise made or established
27 contacts with this State sufficient to permit exercise of personal jurisdiction.
28

PARTIES

5. Plaintiff Sream is a corporation incorporated and existing under the laws of California, with its principle place of business located at 12825 Temescal Canyon Road, Suite B, Corona, California 92883. Sream does business as “RooR USA.”

6. Defendant Shamrock Smoke Shop, Inc. (“Shamrock”) is a California Corporation with a principle place of business located at 19941 Beach Blvd, Huntington Beach, California. Shamrock is a retail smoke shop. Shamrock is engaged in the unlawful importation, manufacture, retail sale and/or wholesale sales of counterfeit RooR branded water pipes and related parts.

7. Defendant Medici Investment, Inc. d/b/a Empire Tobacco (“Empire”) is a California Corporation with a corporate address of 1799 Iowa Street, Costa Mesa California 92626. Empire is a chain of two retail smoke shops. The first of which is located at 1175 Baker St. #10-D, Costa Mesa, California. The second is located at 8915 Atlanta Ave. #B, Huntington Beach, California. Empire is engaged in the unlawful importation, manufacture, retail sale and/or wholesale sales of counterfeit RooR branded water pipes and related parts.

8. DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of Court to amend this Complaint and insert the true names and capacities of said Defendants when the same have been ascertained. Plaintiff is informed and believes and, upon such, alleges that each of the Defendants designated here as a “DOE” is legally responsible in some manner for the events and happenings herein alleged, and that Plaintiff’s damages as alleged herein were proximately caused by such Defendants.

FACTS COMMON TO ALL COUNTS

9. Headquartered in Germany since 1995, Mr. Martin Birzle d/b/a RooR (“RooR”) is an award-winning designer and manufacturer of smoker’s products. RooR products are widely recognized and highly acclaimed for its ornate and innovative

1 products, including its borosilicate jointed-glass water pipes, parts, and accessories related
2 thereto. Indeed, it is one of the leading companies in the industry and has gained
3 numerous awards and recognition for its innovative products and designs.

4 10. For nearly two decades, RooR distinguished itself as the premiere
5 manufacturer of glass water pipes because of the Company's unwavering using quality
6 materials and focus on scientific principles to facilitate a superior smoking experience.
7 RooR's painstaking attention to detail is evident in many facets of authentic RooR
8 products. It is precisely because of the unyielding quest for quality and unsurpassed
9 innovation that RooR products have a significant following and appreciation amongst
10 consumers in the United States.

11 11. Since at least 2011, Plaintiff Sream has been the exclusive licensee of the
12 RooR Mark in the United States. By the terms of the RooR-Sream agreement, Sream has
13 manufactured water pipes under the RooR mark. Sream also advertises, markets, and
14 distributes water pipes, water pipe parts, and other smoker's articles in association with the
15 RooR mark. All of these activities are made with RooR's consent and approval, and in
16 accordance with RooR's strict policies.

17 12. RooR has spent substantial time, money and effort in developing consumer
18 recognition and awareness of the RooR trademarks. These recognition is also due, in part,
19 to the collaborative efforts of Sream. Through the extensive use of the mark, RooR and its
20 exclusive licensee Sream, have built up and developed significant goodwill in the entire
21 RooR product line. A wide array of websites, magazines, and specialty shops include
22 advertising of RooR's products which are immediately identifiable. RooR (i.e., Mr.
23 Martin Birzle) is the exclusive owner of federally registered and common law trademarks.
24 The following is a partial (non-exhaustive) list of RooR's trademarks:

25 a. U.S. Trademark Registration Number 3,675,839 for the word mark
26 "RooR" and its logo in association with goods further identified in registration
27 in international class 034.

28 b. U.S. Trademark Registration Number 2,307,176 for the word mark

“RooR” and its logo identified below in association with goods further identified in the registration in international classes 025 and 034.

c. U.S. Trademark and Registration Number 2,235,638 for the word mark “RooR” and its logo identified below in association with goods further identified in the registration in international class 021.

d. Common law and unregistered state law rights in the following variants of the RooR marks:


 The image shows the word "ROOR" in a bold, black, sans-serif font. The letters are closely spaced. To the right of the word is a registered trademark symbol (®).


 The image shows the word "ROOR" in a bold, black, sans-serif font, followed by the word "TECH" in a smaller, bold, black, sans-serif font. To the right of "TECH" is a registered trademark symbol (®).

(hereinafter collectively the “RooR Marks”).

13. The superiority of the RooR products is not only readily apparent to consumers, who yearn for RooR’s higher quality glass in the marketplace, but to industry professionals as well. RooR’s unique style and functional superiority has earned the brand accolades in leading trade magazines and online publications. Indeed, it’s exactly because consumers recognize the quality and innovation associated with RooR branded products that consumers are willing to pay higher prices for them. For example, a RooR-branded 45 cm water pipe retails for \$300 or more, while a non-RooR product of equivalent size will usually sell for less than \$100.

14. It is exactly because of the higher sale value of RooR branded products that RooR products are targets of counterfeiters. These unscrupulous entities tarnish the RooR brand by unlawfully affixing the RooR Marks to substantially inferior products, leading to significant illegitimate profits. In essence, Defendants mislead consumers to pay premium

1 prices for low grade products that free rides on the RooR brand, and in turn, Defendants
2 reap substantial ill-gotten profits.

3 15. In order to protect the RooR Marks, Sream has been granted all enforcement
4 rights to sue to obtain injunctive and monetary relief for past and future infringement of
5 the RooR Marks.

6
7 **DEFENDANT'S UNLAWFUL ACTIVITIES**

8 16. Beginning on a date that is currently unknown to Plaintiff and continuing to
9 the present, Defendants have, without the consent of Plaintiff, offered to sell and sold
10 within the United states (including within this judicial district) goods that were neither
11 made by RooR nor by a manufacturer authorized by Plaintiff (such goods are hereafter
12 referred to as "Counterfeit Goods") using reproductions, counterfeits, copies and/or
13 colorable imitations of one or more of the RooR Marks. On information and belief,
14 Plaintiff further alleges that Defendants imported said Counterfeit Goods into the United
15 States, or encouraged others to import said Counterfeit Goods into the United States, for
16 the purpose of reselling the Counterfeit Goods in the United States.

17 17. Thus, Plaintiff is informed and believes and, upon such, alleges that, in order
18 to receive higher profit margins, Defendants have held themselves out – through the
19 counterfeit products they carry - to be sponsored by, affiliated with, and/or otherwise
20 connected with RooR / Sream. Specifically, Defendants have advertised, offered for sale,
21 sold, distributed, displayed, and/or have affixed the RooR Marks to water pipes without
22 consent, license, or approval. In so doing, Defendants have sold fake RooR's out of
23 Defendants' stores and/or distributed the same with inferior materials and inferior
24 technology.

25 18. On October 9, 2013, in its ongoing investigation of counterfeit sales of the
26 Plaintiff's products, Plaintiff's investigator purchased a "RooR" glass pipe from
27 Defendant Shamrock for a cost of \$108.50, charged to the account of Plaintiff's
28 investigator. A true and correct copy of the counterfeit product purchased from Defendant

1 Shamrock as well as the purchase receipt is attached hereto as **Exhibit “A”**.

2 19. Upon receipt, images and physical units of products purchased from
3 Defendant Shamrock was inspected by Plaintiff to determine authenticity. Plaintiff’s
4 inspection of the purchased item using security measures confirmed that the item
5 Defendant Shamrock sold to Plaintiff’s investigator was in fact a counterfeit.

6 20. On October 9, 2013, in its ongoing investigation of counterfeit sales of the
7 Plaintiff’s products, Plaintiff’s investigator purchased a “RooR” glass pipe from
8 Defendant Empire at the 8915 Atlanta Avenue location for a cost of \$76.39, charged to the
9 account of Plaintiff’s investigator. A true and correct copy of the counterfeit product
10 purchased from Defendant Empire as well as the purchase receipt is attached hereto as
11 **Exhibit “B”**.

12 21. Later that day, on October 9, 2013, in its ongoing investigation of counterfeit
13 sales of the Plaintiff’s products, Plaintiff’s investigator purchased a “RooR” glass pipe
14 from Defendant Empire at the 1175 Baker Street location for a cost of \$44.41, charged to
15 the account of Plaintiff’s investigator. A true and correct copy of the counterfeit product
16 purchased from Defendant Empire as well as the purchase receipt is attached hereto as
17 **Exhibit “C”**.

18 22. Upon receipt, images and physical units of products purchased from
19 Defendant Empire was inspected by Plaintiff to determine authenticity. Plaintiff’s
20 inspection of the purchased item using security measures confirmed that the item
21 Defendant Empire sold to Plaintiff’s investigator at both the 8915 Atlanta Avenue and
22 1175 Baker Street locations were in fact a counterfeit.

23 23. Defendants have intentionally and knowingly directed payments for the
24 counterfeit items to be made to themselves within this Judicial District.

25 24. Through such business activities, Defendants purposely derived direct benefits
26 from their interstate commerce activities by targeting foreseeable purchasers in the State of
27 California, and in doing so, have knowingly harmed Plaintiff.

28 25. Defendants use images and names confusingly similar or identical to the RooR

1 mark to confuse customers and aid in the promotion and sales of its unauthorized and
 2 counterfeit product. Defendant's use of the RooR Marks include importing, advertising,
 3 displaying, distributing, selling and/or offering for sale unauthorized copies of RooR
 4 branded products.

5 26. Defendants' use began long after RooR's adoption and use of its trademarks,
 6 and after RooR obtained the trademark registrations alleged above. Neither Plaintiff nor
 7 any authorized agents have consented to Defendants' use of the RooR Marks.

8 27. Defendants' actions have confused and deceived, or threatened to confuse and
 9 deceive, the consuming public concerning the source and sponsorship of the Counterfeit
 10 RooR-branded products sold and distributed by Defendants. By their wrongful conduct,
 11 Defendants have trade upon and diminished the goodwill of the RooR marks.
 12 Furthermore, the sale and distribution of counterfeit goods by Defendants have infringed
 13 upon the above-identified federally registered trademarks.

14 28. Defendants offering to sell, selling, importing and encouraging others to
 15 import counterfeit goods in this manner was and is likely to cause confusion or to cause
 16 mistake and/or deceive consumers who purchase the counterfeit goods

17 29. Defendants also offered to sell, sold, imported, and/or encouraged others to
 18 import for purpose of resale within the United States counterfeit goods consisting of
 19 reproductions and/or copies of products bearing the RooR Marks. Defendants' use the
 20 RooR Marks were done without Plaintiff's authorization.

21 22 **FIRST CAUSE OF ACTION**

23 **(Trademark Infringement, 15 U.S.C. §§ 1114)**

24 30. Plaintiff incorporates here by reference the allegations in paragraphs 1 through
 25 29 above.

26 31. RooR (i.e., Mr. Martin Birzle) is the legal owner of the federally registered
 27 RooR Marks as set forth in more detail in the foregoing paragraphs. Sream is the
 28 exclusive licensee of the RooR Marks in the united states, and has been granted all

1 enforcement rights to sue to obtain injunctive and monetary relief for past and future
2 infringement of the RooR Marks.

3 32. The RooR Marks are valid, protectable and distinctive trademarks that RooR
4 continuously used to promote its goods for almost two decades, of which Sream has
5 participated in since at least 2011. Plaintiff is informed and believes and thereon alleges
6 that a substantial segment of the relevant purchasing public recognizes the “RooR” mark
7 as coming from and/or affiliated with RooR, and its exclusive U.S. licensee, Sream.

8 33. Defendant has used marks confusingly similar to RooR’s federally registered
9 RooR Marks in violation of 15 U.S.C. § 1114. Indeed, Defendant’s use of confusingly
10 similar imitations of the RooR Marks mark is likely to cause confusion, deception, and
11 mistake by creating the false and misleading impression that Defendant’s products are
12 manufactured, produced, distributed, endorsed, sponsored, approved, or licensed by RooR,
13 or are associated or connected with RooR and/or Sream. Plaintiff is informed and believes
14 and thereon alleges that Defendants utilized the RooR Marks mark in order to create
15 consumer confusion, and have in-fact created consumer confusion, including but not
16 limited to initial interest confusion and confusion as to an affiliation or association
17 between RooR and Plaintiff, on the one hand, and Defendants on the other.

18 34. At no time did Defendants have the authorization, legal right, or consent to
19 engage in such activities in disregard of RooR / Sream’s rights in the RooR Marks.

20 35. Defendants’ actions complained of herein were intentional, willful, and
21 malicious with a deliberate intent to trade on the goodwill associated with the federally
22 registered RooR Marks.

23 36. Plaintiff is informed and believes and thereon alleges that as a proximate result
24 of the unfair advantage accruing to Defendants’ business from deceptively trading on
25 RooR / Sream’s advertising, sales, and consumer recognition, Defendants have made
26 substantial sales and profits in amounts to be established according to proof.

27 37. As a proximate result of the unfair advantage accruing to Defendants’
28 business from deceptively trading on RooR / Sream’s advertising, sales, and consumer

1 recognition, RooR / Sream have been damaged and deprived of substantial sales and has
 2 been deprived of the value of its trademark as a commercial asset, in amounts to be
 3 established according to proof.

4 38. Plaintiff is informed and believes, and thereon alleges that, unless restrained
 5 by the Court, Defendants will continue to infringe the RooR Marks, thus engendering a
 6 multiplicity of judicial proceedings, and that pecuniary compensation will not afford
 7 Plaintiff adequate relief for the damage to its trademark in the public perception. Further,
 8 Plaintiff is informed and believes and thereon alleges that in the absence of injunctive
 9 relief, customers are likely to continue to be mistaken or deceived as to the true source,
 10 origin, sponsorship, and affiliation of Defendants and their goods.

11 39. Plaintiff is informed and believes and thereon alleges that Defendants' acts
 12 were committed, and continue to be committed, with actual notice of RooR / Sream's
 13 exclusive rights and with an intent to cause confusion, to cause mistake, and/or to deceive,
 14 and to cause injury to the reputation and goodwill associated with RooR / Sream and
 15 RooR products. At a minimum, Plaintiff is entitled to injunctive relief and to recover
 16 Defendant's profits, actual damages, enhanced profits, and damages, costs, and reasonable
 17 attorney's fees under 15 U.S.C. §§ 1114 and 1116. However, given the intentional acts
 18 here Plaintiff is entitled to recover three times its actual damages or three times
 19 Defendants' profits, whichever is greater, together with Plaintiff's attorneys' fees pursuant
 20 to 15 U.S.C. § 1117. In addition, pursuant to 15 U.S.C. § 1118, Plaintiff is entitled to an
 21 order requiring destruction of all infringing materials in Defendants' possession.

22 **SECOND CAUSE OF ACTION**

23 **(Trademark Counterfeiting, 15 U.S.C. §§ 1116)**

24 40. Plaintiff incorporates here by reference the allegations in paragraphs 1 through
 25 39 above.

26 41. Counterfeiting has been recognized as a serious issue resulting in tremendous
 27 losses to American businesses. To combat counterfeits, Congress passed the "Anti-
 28

1 counterfeiting Consumer Protection Act of 1966” (ACPA).

2 42. California has a similar statute in Business and professions Code § 14250.

3 43. Defendant’s actions also constitute the use by Defendants of one or more
4 “counterfeit mark” as defined in 15 U.S.C. §1116(d)(1)(B).

5 44. Defendants’ unauthorized use of the RooR Marks on counterfeit products that
6 they have distributed has caused and is causing consumer confusion about the source and
7 sponsorship of these counterfeit goods.

8 45. Defendants’ sale of these counterfeit products has caused considerable damage
9 to the goodwill of RooR / Sream and diminished the brand recognition of the RooR.

10 46. The sale of these counterfeit products by Defendant has further resulted in lost
11 profits to Sream and has resulted in a windfall for Defendants.

12 47. Plaintiff reserves the right to elect, at any time before final judgment is entered
13 in this case, an award of statutory damages pursuant to 15 U.S.C. § 1117(c)(1) and/or (2).

14 48. Because of the willful nature of the counterfeiting, Plaintiff is entitled to an
15 award of statutory damages of up \$2,000,000 per mark infringed under 15 U.S.C. §§
16 1117(c)(2).

17 49. In the alternative, and at a minimum, Plaintiff is entitled to injunctive relief
18 and to recover Defendant’s profits, actual damages, enhanced profits, and treble damages,
19 costs, and reasonable attorney’s fees under 15 U.S.C. §§ 1117(b)

20 50. Defendants’ corporate officers and directors had actual knowledge of the
21 business activities the respective defendant(s), such as the importation of counterfeit
22 goods, or were willfully negligent to the same. Defendants’ corporate officers and
23 directors directed and materially profited from the activities of their companies’
24 counterfeiting, in the form of increased salaries, benefits, and share price. As such, the
25 corporate officers and directors are further jointly and severally liable for the
26 counterfeiting.

27 51. The acts of direct and/or contributory counterfeiting committed by Defendants
28 have caused, and will continue to cause, Plaintiff irreparable harm unless he is enjoined by

1 this Court.

2
3 **THIRD CAUSE OF ACTION**

4 **(False Designation of Origin/Unfair Competition, 15 U.S.C. § 1115(a))**

5 52. Plaintiff incorporates here by reference the allegations in paragraphs 1 through
6 51 above.

7 53. Defendants caused to enter into interstate commerce water pipes that
8 Defendants marketed through use of marks that is confusingly similar to the unregistered
9 variants of the RooR Marks. Plaintiff is informed and believes and thereon alleges that
10 unregistered variants of the RooR Marks have become associated in the minds of
11 consumers with RooR / Sream and their respective RooR goods.

12 54. The marketing and sale of Defendants' water pipes as described above
13 constitutes false designation of origin which is likely to cause confusion and mistake and
14 to deceive consumers as to the source or origin of such goods or sponsorship or approval
15 of such goods by RooR / Sream.

16 55. Plaintiff is informed and believes and thereon alleges that as a proximate result
17 of Defendants' false designation of origin, Defendants stand to make substantial sales and
18 profits in amounts to be established according to proof.

19 56. Plaintiff is informed and believes and thereon alleges that as a proximate result
20 of Defendants' false designation of the origin of their goods and services, Plaintiff has
21 been damaged and deprived of substantial sales of its goods and has been deprived of the
22 value of its trade dress as commercial assets, in amounts to be established according to
23 proof.

24 57. Plaintiff is informed and believes and thereon alleges that unless restrained by
25 this Court, Defendants will continue to designate falsely the origin of their goods, causing
26 irreparable damage to Plaintiff and engendering a multiplicity of lawsuits. Pecuniary
27 compensation will not afford Plaintiff adequate relief for its resulting damages. Further,
28 Plaintiff is informed and believes and thereon alleges that in the absence of injunctive

1 relief, customers are likely to continue being mistaken or deceived as to the true source,
2 origin, sponsorship, and affiliation of Defendants' goods and services.

3 58. Plaintiff is informed and believes and thereon alleges that Defendants' acts
4 were committed, and continue to be committed, with actual notice of RooR / Sream's
5 exclusive rights and with an intent to cause confusion, to cause mistake, and/or to deceive,
6 and to cause injury to the reputation and goodwill associated with RooR / Sream and
7 genuine RooR products. Pursuant to 15 U.S.C. § 1117, Plaintiff is, therefore, entitled to
8 recover three times its actual damages or three times Defendants' profits, whichever is
9 greater, together with Plaintiffs attorneys' fees. In addition, pursuant to 15 U.S.C. § 1118,
10 Plaintiff is entitled to an order requiring destruction of all infringing materials in
11 Defendants' possession.

12 **FOURTH CAUSE OF ACTION**

13 **(Unfair Competition, California Business & Professions Code § 17200 et seq.)**

14 59. Plaintiff incorporates here by reference the allegations in paragraphs 1 through
15 58 above.

16 60. Defendant's conduct as alleged herein constitutes unfair and deceptive acts or
17 practices in the course of a business, trade, or commerce, in violation of Cal. Bus. & Prof.
18 Code §§ 17200 and 17500, *et seq.*

19 61. Plaintiff is informed and believes and thereon alleges that as a direct and
20 proximate result of Defendants' wrongful conduct as described above, Defendants have
21 gained property and revenues properly belonging to Plaintiff. Plaintiff therefore seeks
22 restitution of these amounts. Plaintiff also seeks injunctive relief restraining Defendants,
23 their officers, agents, and employees, and all persons acting in concert with them, from
24 further engaging in acts of unfair competition and/or fraudulent business acts against
25 RooR / Sream and its intellectual property.
26
27
28

FIFTH CAUSE OF ACTION

(Common Law Unfair Competition)

62. Plaintiff incorporates here by reference the allegations in paragraphs 1 through 61 above.

63. This cause of action arises under the common law.

64. Upon information and belief, Defendants will continue to infringe the registered and unregistered RooR Marks.

65. By the acts and activities of Defendants complained of herein, Defendants have been unjustly enriched.

66. As a direct and proximate result of the acts and activities of Defendants complained of herein, Sream has been damaged in an amount not yet ascertainable but believed to be well in excess of \$75,000. When Sream has ascertained the full amount of damages, it will seek leave of court to amend this Complaint accordingly.

67. Plaintiff is informed and believes, and based thereon alleges, that Defendants, in doing the things herein alleged, acted willfully, maliciously, oppressively and despicably, with full knowledge of the adverse effect of their actions on RooR / Sream, and with willful and deliberate disregard for the consequences to RooR / Sream.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sream, Inc. respectfully requests the following relief against Defendants as follows:

1. With regard to Plaintiff's claim for counterfeiting:
 - a. Defendant's profits and statutory damages of up to \$ 2,000,000 per defendant under the ACPA;
 - b. Defendant's profits, these profits being trebled;
 - c. Attorney's fees;
 - d. Costs of suit;
 - e. Joint and several liability for landlords, officers, and directors for the

1 knowing participation in the counterfeiting activities of the respective
2 Defendants;

3 2. With regard to plaintiff's claim for trademark infringement:

- 4 a. Defendant's profits pursuant to the Lanham Act;
5 b. Damages sustained by the Plaintiff for trademark infringement;
6 c. Attorney's fees;
7 d. Costs of suit;

8 3. For restitution in an amount to be proven at trial for unfair, fraudulent and
9 illegal business practices under California Business & Professions Code § 17200;

10 4. Preliminarily and permanently enjoining Defendants and their agents,
11 employees, officers, directors, owners, representatives, successor companies, related
12 companies, and all persons acting in concern or participation with it, and each of them,
13 from:

14 a. The import, export, making, manufacture, reproduction, assembly, use,
15 acquisition, purchase, offer, sale, transfer, brokerage, consignment, distribution, storage,
16 shipment, licensing, development, display, delivery, marketing advertising or promotion of
17 the counterfeit RooR product identified in the complaint and any other unauthorized RooR
18 product, counterfeit, copy or colorful imitation thereof;

19 5. Pursuant to 15 U.S.C. § 1116(a), directing Defendant to file with the court and
20 serve on Sream within thirty (30) days after issuance of an injunction, a report in writing
21 and under oath setting forth in detail the manner and form in which Defendant has
22 complied with the injunction;

23 6. For an order from the Court requiring that Defendants provide complete
24 accountings and for equitable relief, including that Defendants disgorge and return or pay
25 their ill-gotten gains obtained from the illegal transactions entered into and or pay
26 restitution, including the amount of monies that should have been paid if Defendants had
27 complied with their legal obligations, or as equity requires;

28 7. For an order from the Court that an asset freeze or constructive trust be

1 imposed on all monies and profits in Defendant's possession, which rightfully belong to
2 Plaintiff;

3 8. Pursuant to 15 U.S.C. § 1118 requiring that Defendant and all others acting
4 under Defendant's authority, at their cost, be required to deliver up to Plaintiff for
5 destruction all products, accessories, labels, signs, prints, packages, wrappers, receptacles,
6 advertisements, and other material in their possession, custody or control bearing any of the
7 RooR Marks;

8 9. For treble damages suffered by Plaintiff as a result of the willful and
9 intentional infringements engaged in by Defendants, under 15 U.S.C. § 1117(b);

10 10. For damages in an amount to be proven at trial for unjust enrichment;

11 11. For an award of exemplary and punitive damages in amount to be determined
12 by the Court;

13 12. For Plaintiff's reasonable attorney's fees;

14 13. For all costs of suit;

15 14. For such other and further relief as the Court may deem just and equitable.
16
17

18 Dated: November 27, 2013

ONE LLP

19
20
21 Bv: 

22 Imran F. Vakil.
23 *Attorneys for Plaintiff,*
24 *Sream, Inc.*
25
26
27
28

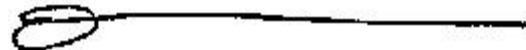
DEMAND FOR JURY TRIAL

Plaintiff Sream, Inc., hereby demands trial by jury of all issues so triable under the law.

Dated: November 27, 2013

ONE LLP

Bv:



Imran F. Vakil.
Attorneys for Plaintiff,
Sream, Inc.

EXHIBIT “A”





EXHIBIT “B”





EXHIBIT “C”





**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Philip S. Gutierrez and the assigned Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

SACV13-01868 PSG (AGRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

November 27, 2013

Date

By M. Barr
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:

Imran F. Vakil (SBN 248859)
 Christopher W. Arledge (SBN 200767)
 ONE LLP, 4000 MacArthur Blvd., East Tower,
 Suite 500, Newport Beach, CA 92660
 Tel: 949-502-2870 Fax: 949-258-5081

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

SREAM, INC.,

CASE NUMBER

SACV13-01868 PSG (AGR_x)

PLAINTIFF(S)

v.

SHAMROCK SMOKE SHOP, INC.; MEDICI
 INVESTMENT, INC. d/b/a EMPIRE TOBACCO; and
 DOES 1-10 INCLUSIVE,

SUMMONS

DEFENDANT(S).

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Imran F. Vakil, whose address is ONE LLP, 4000 MacArthur Blvd., East Tower, Suite 500, Newport Beach, CA 92660. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: _____

NOV 27 2013

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

SREAM, INC.

DEFENDANTS (Check box if you are representing yourself ☐)SHAMROCK SMOKE SHOP, INC.; MEDICI INVESTMENT, INC. d/b/a EMPIRE TOBACCO;
and DOES 1-10 INCLUSIVE,**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Miran F. Vakili (SBN (248859)

ONE LLP

4000 MacArthur Blvd., Ste. 1100

Newport Beach, CA 92660

(949) 502-2870

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | |
|---|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input checked="" type="checkbox"/> 4 DEF <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION** under F.R.Cv.P. 23: ☐ Yes ☐ No ☐ **MONEY DEMANDED IN COMPLAINT:** \$ TBD**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. §§ 1051 et seq

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input checked="" type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	TORTS	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input checked="" type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 155 Motor Vehicle	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY: Case Number:

SACV13-01868 PSG (AGRx)

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
NOTE: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange	

*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): _____ DATE: 11/27/2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))